

HOUSE No. 2716

By Mr. Mariano of Quincy, petition of Ronald Mariano relative to the transfer of certain health care clinics. Public Health.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE TRANSFER OF CERTAIN HEALTH CLINICS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Notwithstanding the provisions of any general or special law to
2 the contrary, no individual physician or physician group under the
3 solo or group practice exclusion from the definition of “clinic”
4 contained in section 52 of chapter 111 of the General Laws, shall,
5 after the effective date of this section, establish, acquire or
6 transfer to a new location (if such a transfer would otherwise be
7 subject to department of public health review and approval under
8 the determination of need program or otherwise) a health care
9 entity or service that operates medical, diagnostic or therapeutic
10 equipment that is used to provide (a) either single or multiple spe-
11 cialty surgical services requiring general, spinal or major regional
12 anesthesia, or (b) an innovative service or that is new technology,
13 as such terms are defined in section 25B of chapter 111 of the
14 General Laws, unless such individual physician or physician
15 group shall have first received a determination of need under
16 section 25C of chapter 111 of the General Laws for such surgical
17 service, innovative service or new technology; and after the effec-
18 tive date of this section, no medical or therapeutic equipment used
19 to provide an innovative service or which is new technology shall
20 be acquired in furtherance of a notice of intent to acquire such
21 equipment filed with the department of public health prior to the
22 effective date of chapter 350, section 6 of the acts of 1993, or
23 transferred to another location except in accordance with depart-
24 ment of public health rules and regulations governing transfers of
25 equipment subject to the determination of need rules and regula-

26 tions. Notwithstanding the provisions of any general or special
27 law to the contrary, any health care entity providing single or mul-
28 tiple specialty surgical services requiring general, spinal or major
29 regional anesthesia shall be subject to licensure by the department
30 of public health to the same extent that hospitals providing such
31 services are subject to such licensure. For purposes of this
32 section, “health care entity” is defined as an entity that provides
33 health care related testing, diagnosis or treatment of individuals
34 but does not include a hospital licensed by the department of
35 public health pursuant to section 51 of chapter 111 of the General
36 Laws. The department of public health shall enforce this section.
37 The superior court shall have jurisdiction in equity to enforce the
38 provisions of this section. Upon an initial determination of a vio-
39 lation of this section, the department of public health shall forth-
40 with seek injunctive relief in the superior court. A violation of
41 this section shall be punishable by a fine of not less than \$2,000.
42 Any continuing violation of this section shall be punishable by a
43 fine of not less than \$2,000 and not more than \$5,000 per day of
44 operation, and by one or both of: (i) referral of the physician to
45 the board of registration in medicine for appropriate disciplinary
46 action; and (ii) revocation of the health care entity’s license.